

SEP 26 1983

Alexander L. Stevas, Clerk

No. 83-300
IN THE
Supreme Court of the United States

October Term, 1983

CITY OF LOS ANGELES

DEPARTMENT OF WATER AND POWER,

Petitioner,

vs.

NATIONAL AUDUBON SOCIETY, a corporation; FRIENDS OF
THE EARTH, a corporation; THE MONO LAKE COMMITTEE,
a corporation; and THE LOS ANGELES AUDUBON SOCI-
ETY, a corporation,

Respondents.

**Brief in Support of Petition for Writ
of Certiorari to the Supreme Court
of the State of California**

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Questions Presented

The questions presented are accurately and succinctly stated in the Petition for Writ of Certiorari and are hereby adopted by Respondent for purposes of this Brief.

Parties to the Action

Respondent adopts, for purposes of this Brief, the Parties to the Action as set forth in the Petition for Writ of Certiorari.

In addition, the following are subsidiaries and affiliates of Respondent Southern California Edison Company:

Associated Southern Investment Company
 Bear Creek Uranium Company
 Belridge Field Cogeneration Company
 Calabasas Communications Company
 Calabasas Park Company
 Calabasas Park Company, Inc.*
 California Electric Power Company*
 Conservation Financing Corporation
 Electric Systems Company
 Energy Services, Inc.
 Kern River Cogeneration Company
 Mono Green Mountain Company
 Mono Power Company
 Mono Power Company (Bolivia)*
 Mono Power Company (Italy)*
 Mono Power Company (Malaysia)*
 Mono Power Company (Nicaragua)*
 Mono Power Company (Papua, New Guinea)*
 Mono Power Company (Peru)*
 Palo Verde Uranium Venture*
 Rocky Mountain Energy Company — Mono Power
 Company — Halliburton Company Uranium
 Partnership
 SCE Capital Company
 Southern California Edison Finance Company N.V.
 Southern Sierra Energy Company
 Southern Surplus Realty Company

*Inactive

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Opinions Below

Respondent adopts, for purposes of this Brief, the cita-
tions to the Opinions Below contained in the Petition for
Writ of Certiorari.

Jurisdiction

Respondent adopts, for purposes of this Brief, the State-
ment of Jurisdiction contained in the Petition for Writ of
Certiorari.

Statutory Provisions Involved

Respondent adopts, for purposes of this Brief, the Stat-
utory Provisions set forth in the Petition for Writ of Certiorari.

Statement of the Case

Respondent adopts, for purposes of this Brief, the Statement of the Case as set forth in the Petition for Writ of Certiorari.

REASONS FOR GRANTING THE PETITION

Respondent Southern California Edison Company ("Edison") is the owner of water rights in the Mono Basin including appropriative rights held under permits and licenses granted by the State of California. As the holder of these substantial water rights, Edison has vested proprietary interests at stake in the resolution of this litigation.

In reliance on the permits and licenses issued by the State of California, Edison has expended an enormous investment in hydroelectric power generation and transmission facilities. In the Mono Lake Basin, Edison and its predecessor companies have diverted water for power generation by direct diversions of stream flows and by storage since 1910. The value of these diversions for power generation purposes is great. The decision of the California Supreme Court, however, raises questions about the continuing validity of these water diversions. Moreover, since the decision affects all navigable waters in California, as well as waters tributary thereto, it potentially places at risk all existing water rights and may serve to impede currently planned and badly needed hydroelectric energy development.

Falling water is one of California's most economic and dependable sources of energy and is Edison's oldest generating resource. Edison currently owns 915,000 kilowatts of hydroelectric resources and plans to add more than 220,000 kilowatts during the next ten years as part of its program to accelerate the development of renewable alternative energy sources. In 1982, the electric energy produced by Edison's hydroelectric projects saved its customers over \$350,000,000 in fuel costs. The operation of Edison's existing and future hydroelectric facilities is clearly dependent upon its ability to continue to appropriate water pursuant to permits and licenses issued by the State of California. The

decision of the California Supreme Court, however, disrupts the stability of the California appropriative water rights system and clouds the legal interests of those who depend on their vested appropriative rights for energy, agricultural, or municipal purposes.

The legal issues in this case are of vast importance to all appropriative water users in California. Further, if the decision of the California Supreme Court is allowed to stand, the millions of Californians who rely on the validity and permanence of Edison's water rights to generate electricity may be adversely impacted. For these reasons, Edison requests that the Court grant the City of Los Angeles' Petition for Writ of Certiorari.

Dated: September 21, 1983.

Respectfully submitted,

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